

1 J. RANDALL JONES, Esq., SBN 1927
r.jones@kempjones.com
2 MICHAEL J. GAYAN, Esq., SBN 11135
m.gayan@kempjones.com
3 MONA KAVEH, Esq., SBN 11825
m.kaveh@kempjones.com
4 KEMP JONES LLP
5 3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169
6 Telephone: (702) 385-6000

7 RICHARD L. STONE, Esq. (*pro hac vice*)
rstone@jenner.com
8 DAVID R. SINGER, Esq. (*pro hac vice*)
dsinger@jenner.com
9 AMY M. GALLEGOS, Esq. (*pro hac vice*)
agallegos@jenner.com
10 JENNER & BLOCK LLP
11 633 West 5th Street, Suite 3600
12 Los Angeles, California 90071
13 Telephone: (213) 239-5100

14 *Attorneys for Defendants/Counterclaimant*

15 **UNITED STATES DISTRICT COURT**

16 **DISTRICT OF NEVADA**

17 LAS VEGAS SUN, INC., a Nevada
corporation,

18 Plaintiff,

19 v.

20 SHELDON ADELSON, an individual and
as the alter ego of News+Media Capital
21 Group LLC and as the alter ego of Las
Vegas Review Journal, Inc.; PATRICK
22 DUMONT, an individual; NEWS+MEDIA
23 CAPITAL GROUP LLC, a Delaware
limited liability company; LAS VEGAS
24 REVIEW-JOURNAL, INC., a Delaware
corporation; and DOES, I-X, inclusive,

25 Defendants.

26 Case No.: 2:19-cv-01667-GMN-VCF

27 **DEFENDANTS' RESPONSE TO**
PLAINTIFF'S MOTION FOR LEAVE TO
FILE UNDER SEAL EXHIBIT 5 TO
PLAINTIFF'S REPLY IN SUPPORT OF
MOTION TO COMPEL PRODUCTION
OF DOCUMENTS IN RESPONSE TO
REQUEST NO. 405 [ECF NO. 582]

28 **AND**

MOTION FOR LEAVE TO FILE UNDER
SEAL [ECF NO. 420-2]

1 LAS VEGAS REVIEW-JOURNAL, INC.,
2 a Delaware corporation,

3 Counterclaimant.

4 v.

5 LAS VEGAS SUN, INC., a Nevada
6 corporation; BRIAN GREENSPUN, an
7 individual and as the alter ego of Las
8 Vegas Sun, Inc.; GREENSPUN MEDIA
9 GROUP, LLC, a Nevada limited liability
company, as the alter ego of Las Vegas
Sun, Inc.

10 Counterclaim Defendants.

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MEMORANDUM OF POINTS AND AUTHORITIES

I.

RESPONSE TO ECF NO. 582

4 On February 9, 2022, the Sun filed its Reply in Support of Motion to Compel Production
5 of Documents in Response to Request No. 405. ECF Nos. 583, 584 (FUS) (the “Reply”). In
6 conjunction with the Reply, the Sun also filed its Motion for Leave to File Under Seal Exhibit 5
7 to its Reply. ECF No. 582. Exhibit 5 is a January 22, 2021, letter from Defendants’ counsel to the
8 Sun’s counsel attaching a 20-page chart listing the search terms run by Defendants in the course
9 of responding to the Sun’s requests for production of documents in this action. ECF No. 584-5.
10 Defendants had marked the chart as “Confidential” under the parties’ protective order. *Id.*

11 The Sun seeks to “temporarily” file Exhibit 5 under seal and places the burden on
12 Defendants to establish the good cause to seal this exhibit. ECF No. 582 at 3:19–21. Exhibit 5
13 contains personal, non-public email addresses of parties and non-parties in this litigation, which
14 should not be made public. Defendants are not seeking to redact emails ending with: sands.com,
15 reviewjournal.com, lasvegassun.com, or gatehousemedia.com. Thus, Defendants request this
16 Court require the Sun to redact the personal, non-public email addresses contained within Exhibit
17 5 before publicly filing the document. This information is attached to the Sun’s discovery brief
18 and is not “more than tangentially related to the merits of the case[,]” so Defendants need only
19 meet the lower “good cause” test to justify its sealing. *See Kamakana v. City & Cty. of Honolulu*,
20 447 F.3d 1172, 1179 (9th Cir. 2006) (holding “good cause” is sufficient grounds to seal materials
21 attached to a non-dispositive motion”); *see also Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809
22 F.3d 1092, 1101 (9th Cir. 2015).

23 Similarly, there is a low public right to information attached to a pleading that is irrelevant
24 to the issues tried in this case. *See, e.g., In re Nat'l Consumer Mortg., LLC*, 512 B.R. 639, 641-
25 42 (D. Nev. June 19, 2014) (holding that because exhibit “was irrelevant to the issues tried in this
26 matter,” the “public’s right to know th[e] information as part of a court record is low.”). Courts
27 also routinely allow the sealing and redacting of private email addresses under both the good
28 cause and heightened compelling reasons tests. *See, e.g., Al Otro Lado, Inc. v. Wolf*, 2020 WL

1 8617491, at *2 (S.D. Cal. Mar. 12, 2020) (permitting redactions of email addresses from exhibits);
 2 *Ehret v. Uber Technologies, Inc.*, 2015 WL 12977024, at *3 (N.D. Cal. Dec. 2, 2015) (finding
 3 email addresses are not relevant to the merits of the case and granting defendant's motion to seal
 4 to redact email addresses); *In re Hydroxycut Marketing and Sales Practices Litig.*, 2011 WL
 5 864897, at *1 (S.D. Cal. Mar. 11, 2011) (granting motion to seal to redact exhibits because they
 6 revealed email addresses of individuals, which could expose them to "unnecessary harassment").

7 At the February 22, 2022, hearing, the Special Master ordered that personal email
 8 addresses may be redacted from public filings. However, given that the Sun's motion to seal is
 9 currently pending with Defendants' response due on February 23, Defendants file this response
 10 in an abundance of caution, so the motion is not unopposed on the docket, potentially leading to
 11 the unsealing of this information. Therefore, Defendants respectfully request this Court order the
 12 Sun to redact the personal, non-public email addresses contained within Exhibit 5 (ECF No. 584-
 13 5) before publicly filing the document.

14 **II.**

15 **MOTION FOR LEAVE TO FILE UNDER SEAL [ECF NO. 420-2]**

16 On June 21, 2021, Interface Operations LLC dba Adfam ("Adfam") filed its Opposition
 17 to Plaintiff's Renewed Motion to Compel Compliance with Adfam Subpoena, along with an
 18 Appendix of Exhibits. ECF Nos. 419 and 420. Attached at ECF No. 420-2 is a May 4, 2021, letter
 19 from Defendants' counsel to the Sun's counsel attaching an 82-page chart of Defendants' ESI
 20 search terms run in connection with Defendants' discovery efforts in this action. ECF No. 420-2.
 21 That chart contains personal, non-public email addresses of parties and non-parties in this
 22 litigation, which were inadvertently not redacted before publicly filing. Defendants file this
 23 motion to seal and seek to seal ECF No. 420-2, which is already on the public docket. If the Court
 24 grants this motion and seals the version of ECF No. 420-2 on the public docket, Defendants will
 25 then publicly file a redacted version of ECF No. 420-2, which will only redact the personal, non-
 26 public email addresses listed in the chart. Defendants are not seeking to redact emails ending
 27 with: sands.com, reviewjournal.com, lasvegassun.com, or gatehousemedia.com.
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1 This information is attached to Adfam's discovery brief and is not "more than tangentially
2 related to the merits of the case[,] so Defendants need only meet the lower "good cause" test to
3 justify its sealing. *See Kamakana v. City & Cty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006)
4 (holding "good cause" is sufficient grounds to seal materials attached to a non-dispositive
5 motion"); *see also Ctr. for Auto Safety v. Chrysler Grp., LLC*, 809 F.3d 1092, 1101 (9th Cir.
6 2015). Similarly, there is a low public right to information attached to a pleading that is irrelevant
7 to the issues tried in this case. *See, e.g., In re Nat'l Consumer Mortg., LLC*, 512 B.R. 639, 641-
8 42 (D. Nev. June 19, 2014) (holding that because exhibit "was irrelevant to the issues tried in this
9 matter," the "public's right to know th[e] information as part of a court record is low."). As stated
10 above, courts routinely allow the sealing and redacting of private email addresses under both the
11 good cause and heightened compelling reasons tests. *See, e.g., Al Otro Lado, Inc. v. Wolf*, 2020
12 WL 8617491, at *2 (S.D. Cal. Mar. 12, 2020) (permitting redactions of email addresses from
13 exhibits); *Ehret v. Uber Technologies, Inc.*, 2015 WL 12977024, at *3 (N.D. Cal. Dec. 2, 2015)
14 (finding email addresses are not relevant to the merits of the case and granting defendant's motion
15 to seal to redact email addresses); *In re Hydroxycut Marketing and Sales Practices Litig.*, 2011
16 WL 864897, at *1 (S.D. Cal. Mar. 11, 2011) (granting motion to seal to redact exhibits because
17 they revealed email addresses of individuals, which could expose them to "unnecessary
18 harassment").

19 Therefore, Defendants respectfully request this Court seal ECF No. 420-2. If the Court
20 grants this motion and seals the version of ECF No. 420-2 on the public docket, Defendants will
21 then publicly file a redacted version of ECF No. 420-2, which will only redact the personal, non-
22 public email addresses listed in ECF No. 420-2.

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1 Dated: February 23, 2022

2 KEMP JONES, LLP

3 */s/ Mona Kaveh*

4 J. RANDALL JONES, ESQ., SBN 1927
5 MICHAEL J. GAYAN, ESQ., SBN 11135
6 MONA KAVEH, ESQ., SBN 11825
3800 Howard Hughes Parkway, 17th Floor
Las Vegas, Nevada 89169

7 RICHARD L. STONE, ESQ. (*pro hac vice*)
8 DAVID R. SINGER, ESQ. (*pro hac vice*)
9 AMY M. GALLEGOS, ESQ. (*pro hac vice*)
JENNER & BLOCK LLP
10 633 West 5th Street, Suite 3600
Los Angeles, California 90071

11 *Attorneys for Defendants/Counterclaimant*

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PROOF OF SERVICE

I hereby certify that on the 23rd day of February, 2021, I served a true and correct copy of the foregoing **DEFENDANTS' RESPONSE TO PLAINTIFF'S MOTION FOR LEAVE TO FILE UNDER SEAL EXHIBIT 5 TO PLAINTIFF'S REPLY IN SUPPORT OF MOTION TO COMPEL PRODUCTION OF DOCUMENTS IN RESPONSE TO REQUEST NO. 405 [ECF NO. 582] AND MOTION FOR LEAVE TO FILE UNDER SEAL [ECF NO. 420-2]** via the United States District Court's CM/ECF electronic filing system to all parties on the e-service list.

E. Leif Reid, Bar No. 5750
Marla Hudgens, Bar No. 11098
Kristen L. Martini, Bar No. 11272
Nicole Scott, Bar No. 13757
LEWIS ROCA ROTHGERBER CHRISTIE LLP
One East Liberty Street, Suite 300
Reno, Nevada 89501

Joseph M. Alioto, *Pro Hac Vice*
ALIOTO LAW FIRM
One Sansome Street, 35th Floor
San Francisco, California 94104

James J. Pisanelli, Bar No. 4027
Todd L. Bice, Bar No. 4534
Jordan T. Smith, Bar No. 12097
PISANELLI BICE PLLC
400 South 7th Street, Suite 300
Las Vegas, Nevada 89101

Attorneys for Plaintiff/Counterclaim Defendants

/s/ *Ali Augustine*

An employee of Kemp Jones, LLP